

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Jose Cuellar,

Civil 10-2041 SRN/FLN

Petitioner,

v.

O R D E R

Scott P. Fisher, Warden,

Respondent.

Based upon the Report and Recommendation by United States Magistrate Judge Franklin L. Noel dated February 24, 2011, all the files and records, and no objections having been filed to said Report and Recommendation,

IT IS HEREBY ORDERED that:

1. Petitioner's petition for a writ of habeas corpus [#1] is DENIED;
2. This action is DISMISSED WITH PREJUDICE; and
3. JUDGMENT BE ENTERED ACCORDINGLY.

Pursuant to 28 U.S.C. §2253 (c), a Certificate of Appealability will not be issued because Petitioner has failed to make a substantial showing of the denial of any constitutional right.

DATED: __March 29, 2011

s/ Susan Richard Nelson
SUSAN RICHARD NELSON
United States District Court Judge